

FILED

APR - 3 2012

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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Carlos Arturo Patino Restrepo,
C/O JOSE A. MUNIZ 277 BROADWAY SUITE 108
NEW YORK NY 10007
Plaintiff,

v.

Immigration and Customs Enforcement
Washington D.C. 20536-5006

U.S. Drug Enforcement Administration
700 Army Navy Drive
Arlington, VA 22202

Defendants .

C Case: 1:12-cv-00510
Assigned To : Leon, Richard J.
Assign. Date : 4/3/2012
Description: FOIA/Privacy Act

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**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff Carlos Arturo Patino Restrepo brings this action against Defendants Immigration Customs Enforcement and the Drug Enforcement Administration, to compel compliance with the Freedom of Information Act, 5 U.S.C. 556 ("FOIA"). As grounds therefore, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. 552(a)(4)(b) and 28 U.S.C. 1331.
2. Venue is proper on this district pursuant to 28 U.S.C. 139(e) since Plaintiff was extradited from Colombia.

PARTIES

3. Plaintiff is Carlos Arturo Patino Restrepo, a federal prisoner confined to the MDC Brooklyn New York.
4. Defendant Immigration and Customs Enforcement (ICE) is an agency of the United States Government. Defendant ICE has its principal place of business in Washington D.C. 20536-5006.
5. Defendant U.S. Drug Enforcement Administration (DEA) is an agency of the U.S. Department of Justice with its place of business located at 700 Army Navy Drive Arlington, VA 22202.

STATEMENT OF FACTS

6. On June 3rd, 2011, Plaintiff sent a FOIA request to Defendant DHS seeking access to the following records:
 - a. Communications between DHS (and its subordinate agencies) and any/all officers, agencies and/or representatives of the Government of Colombia concerning witnesses and nationals of Colombia who testified in the prosecution of Carlos Arturo Patino Restrepo, EDNY 02-cr-1188.
 - b. Communication between DOS and the U.S Department of Justice (to include the office of U.S Attorney Loretta E. Lynch and Assistant US Attorney Bonnie S. Klapper and/or the U.S. Department of Justice. These conversation included but not limited to: Ramon Orosco, Gabriel Puertas, Arcangel Henao Montoya that made references to Plaintiff. Those agents and prosecutorial notes are requested as part of this FOIA/PA
 - c. The participation of U.S. Department of Justice personnel in coordinating facilitating and/ or approving the extradition request of Carlos Arturo

Patino Restrepo into the United States. These include but not limited to ICE Agent Romedio Viola and records pertaining to an investigation by the Colombian government against Agent Viola for corruption.

- d. On June 3rd, 2011 Plaintiff also sent a FOIA request to Defendant Immigration and Customs seeking access to the following records:
Communications between DOJ and any/all officers, including ICE Agent Romedio Viola and/or representatives of the Government of Colombia concerning Ramon Orosco, a Colombian national who testified in the prosecution of this Plaintiff.
- e. Communications between DOJ and the U.S Department of State and/or the Department of Homeland Security (and its subordinate agencies) concerning the extradition of Plaintiff as well as those who testified against Plaintiff.
- f. Communications between DOJ and the U.S Department of State and/or the Department of Homeland Security (and its subordinate agencies) concerning the seizure of the ship known as "El Gatun" and a Leiner Valencia a/k/a/ Pirana.
- g. Communications between DOJ and the U.S Department of State and/or the Department of Homeland Security (and its subordinate agencies) concerning memos, notes, investigative reports and or statements made by Jose Luis Vallejo a/k/a/ Tangarife and a Libia Cadavid that implicate Plaintiff.

- h. Plaintiff has also requested copies of his grand jury transcripts from the U.S. District Court for Eastern District of New York in the case of *United States v. Carlos Arturo Patino Restrepo*, case no.: 02-cr-0118. Defendant DOJ acknowledge receipt of plaintiff's FOIA request by letter dated June 12, 2011. By this letter, Defendant DOJ granted Plaintiff a fee waiver. As of July 2nd, 2011, Defendant DOJ failed to produce records responsive to Plaintiff's request.
- 7. Plaintiff's FOIA request was received by Defendant DOJ on June 8th, 2011 at the latest. As of July 2nd, 2011 Defendant DOJ has failed to produce records responsive to Plaintiff's request or otherwise respond to the request in any fashion.
- 8. Plaintiff's FOIA request was received by Defendant DOJ on June 8th, 2011 at the latest. As of July 3rd, 2011, Defendant DOJ and DOS has failed to produce records responsive to Plaintiff's request or otherwise respond to the request in any fashion.

COUNT ONE
(Violation of FOIA)

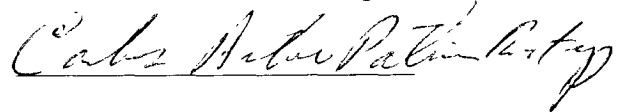
- 9. Plaintiff re-alleges paragraph 1 through 9 as if fully states herein.
- 10. Defendants have violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's FOIA June 3rd, 2011 request within the twenty (20) day time period required by 5 U.S.C 552(a)(6)(A)(i).

WHEREFORE, Plaintiff respectfully request that the court: (1) declare Defendants' failure to comply with FOIA to be unlawful; (2) order Defendant to produce any and all non-exempt records responsive to plaintiff's FOIA request and a *Vaughn* index of allegedly exempt responsive records by date certain; (3) enjoin Defendants from continuing to withhold any and all non-exempt records responsive to Plaintiff's June 3rd, 2011 FOIA request; (4) grant Plaintiff an award of attorney's fee and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. 552(a)(4)(E); and (5) grant Plaintiff such other relief as the court deems just and proper.

Dated: March 20th, 2012

Respectfully submitted,

Carlos Arturo Patino Restrepo

A handwritten signature in black ink, appearing to read 'Carlos Arturo Patino Restrepo', written over a horizontal line.

Carlos Arturo Patino Restrepo
C/o Jose A. Muniz, Esq.
277 Broadway Suite 108
New York, NY